UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Offic
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Washington, D.C. 20231

AS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR		ATTORNEY DOCKET NO.
09/269,771	05/17/00	WENDLAND	N	4080-29PUS

IM22/0227

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EXAMINER	
PRATT,C	
ART UNIT	**PAPER NUMBER**
1771	19

DATE MAILED: 02/27/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/269,771	WENDLAND, NIELS	
	Examiner	Art Unit	
	Christopher C. Pratt	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 January 2001* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *7-10 and 12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *7-10 and 12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☒ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
18) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other: .

DETAILED ACTION

Response to Amendment

1. Applicant's amendments and accompanying remarks filed 1/10/01 have been entered and carefully considered. Applicant's amendment is found to overcome the claim objection as well as the 102 rejection set forth in the last action. The 112 second paragraph rejection over the word "including" is withdrawn because applicant has stated on the record that "including" is equivalent to "comprising." Despite this advance, the amendments are not found to patently distinguish the claims over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

Specification

2. The use of the trademarks such as "Tivolmelt 9058/30" have been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

The trademarked adhesives recited are not accompanied by their generic terminology. Applicant only states that these trademarks are "hot melt adhesives" without disclosing the actual compositions of these adhesives. Therefore, any hot melt adhesive is deemed suitable for use in applicant's invention.

Claim Rejections - 35 USC § 112

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 7-10 and 12 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, as set forth in the last action. Applicant's specification is deficient with respect to three different aspects of the claims.

First, the specification does not teach how to make any particular fabric, which would be resistant to penetration by an adhesive.

Secondly, the specification does not teach how to form a fabric having "raised points."

Finally, the specification does not teach what "degree of fluidization" is sufficient to prevent the adhesive from penetrating the fabric. The specification also does not teach how to alter the "degree of fluidization" of an adhesive.

5. Claims 7-10 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 is indefinite because it recites the phrase "raised points." What is the nature of the "raised points" on the fabric?

Claim 7 is indefinite because it contains the phrase "degree of fluidization." Is applicant referring to the viscosity of the adhesive? What specific "degree of fluidization" is sufficient to prevent an adhesive from entering a fabric? How does applicant measure the "degree of fluidization?"

Claim 7 recites the limitation "the thermoplastic long-term adhesive" in lines 7-8. There is insufficient antecedent basis for this limitation in the claim. This phrase is still indefinite because the specification does not state what amount of time is "long-term." The examiner recommends replacing this term with the word "permanent" throughout the claims.

Claim Rejections - 35 USC § 103

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over XP-002052603, XP-002052605, or XP-002052604.

Applicant has amended the claims to include the fabric having raised points. It is the examiner's position that on a microscopic level the fabrics taught in these references inherently have raised points. Furthermore, it would also have been obvious to create irregular surfaces on the face of said fabrics. Such a modification would have been motivated by the reasoned expectation of creating a surface having an improved ability to hold an adhesive layer. These references also teach an adhesive adhered to the fabric as set forth in the last action. The examiner notes that applicant's claims do not preclude the adhesive being present on other areas of the fabric. With respect to the viscosity of the adhesive the examiner takes official notice that it is know and very

common to alter the viscosity of an adhesive. The skilled artisan would have been motivated to alter the viscosity of the adhesives used on said references by the reasoned expectation of making an adhesive more suitable to a variety of end use applications.

7. Claims 1-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB-2171956 in view of XP-002052603, XP-002052605, or XP-002052604, as set forth in the last action.

Applicant argues that GB-2171956 does not teach a fabric having "raised points" as recited in claim 7. It is the examiner's position that GB-2171956 inherently has raised points or alternatively it would have been obvious to create "raised points" on the fabric of GB-2171956 for the reasons set forth above.

Applicant also argues that GB-2171956 does not teach a permanent adhesive layer applied directly to said fabric. It is the examiner's position that this argument is not commensurate in scope with the claims. Claim 7 requires that an "interrupted layer" adhere to the side of a fabric. This "interrupted layer" must further "include" an adhesive layer. The claims do not require the spatial relationship argued by applicant and do not preclude the presence of a barrier layer between the adhesive and the fabric. The examiner considers the combination of the barrier layer and the adhesive layer of GB-2171956 to be equivalent to applicant's "interrupted layer." Said rejection is maintained from the last action.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2351.

Christopher C. Pratt
February 18, 2001

TERREL MORRIS
SUPERVISORY PATENT EXAMINER
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